

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 02-2013

TONY TOLBERT,

Plaintiff - Appellant,

versus

DONNIE RICE; GWEN DEAN; DENNIS HUMAN; MISS
DEVON; YORKSHIRE AMERICAS,

Defendants - Appellees.

Appeal from the United States District Court for the District of
South Carolina, at Greenville. Henry M. Herlong, Jr., District
Judge. (CA-02-2079-6-20-AK)

Submitted: January 27, 2003

Decided: March 28, 2003

Before WILKINS, Chief Judge, and LUTTIG and TRAXLER, Circuit
Judges.

Dismissed by unpublished per curiam opinion.

Tony Tolbert, Appellant Pro Se.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Tony Tolbert seeks to appeal the district court's order dismissing without prejudice his employment-related complaint. Tolbert's case was referred to a magistrate judge pursuant to 28 U.S.C. § 636(b)(1)(B) (2000). The magistrate judge recommended that Tolbert's complaint be dismissed without prejudice and advised Tolbert that failure to file timely, specific, written objections to this recommendation could waive further judicial review, including appellate review if the recommendation were accepted by the district court. Tolbert did not object to the report, and the district court adopted the recommendation. Tolbert appeals.

We find that this appeal is interlocutory. The district court dismissed the complaint without prejudice. Because Tolbert may be able to proceed with this action by amending his complaint, the dismissal order is not final and thus is not subject to appellate review. See Domino Sugar Corp. v. Sugar Workers Local Union 392, 10 F.3d 1064, 1066-67 (4th Cir. 1993).

We therefore dismiss the appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED